

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

ROBINSON TEJADA-PARRA

Defendant

CRIMINAL 05-0245CCC

O R D E R

On February 1, 2006, defendant argued his Fed.R.Crim.P. 29(a) motion after conclusion of all the evidence. The Court denied the same as to Counts 1 and 2 and reserved its ruling as to Count 3 to further ponder defendant's argument that to be guilty of currency smuggling under 31 U.S.C. §5332 there must be **physical** concealment of the currency or other monetary instruments. Section 5332(a)(2) provides that "for purposes of this section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, backpack, or other container worn or carried by such individual." Defendant argues that since the evidence submitted by the government was that he concealed approximately \$4,700.00 in his underwear, the element of concealment of more than \$10,000.00 in currency has not been proven.

Although section 5332(a)(2) clearly addresses the modes of concealment, defining these in the context of physically hiding the currency either in clothing, luggage or containers, worn or carried by the individual, the government presented evidence that the currency was found in a sealed envelope, wrapped, and placed in a compartment of his luggage. The fact that, during a patdown, the amount of approximately \$4,700.00 was found hidden in his underwear should not be considered divorced from the other evidence presented by the government that the currency was concealed in a sealed, wrapped envelope in his luggage. It is for the jury to assess this evidence and the permissible inferences that could be derived therefrom to determine if defendant actually concealed currency in excess of \$10,000.00 on his person and/or his luggage.

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For the reasons stated, defendant's Rule 29(a) motion submitted at the conclusion of all the evidence is DENIED in its entirety.

SO ORDERED.

At San Juan, Puerto Rico, on February 2, 2006.

S/CARMEN CONSUELO CEREZO
United States District Judge